

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMPANY PETITION NO.7 OF 1984

In the matter of Companies Act,
1 of 1956,

And

In the matter of M/s.W.G.Forge &
Allied Industries Limited

Mr.Rajguru for Custom Authorities
Mr.S.I.Shah for CWC
Mr.V.Sawant for MSWC
Mr.P.Ramarao, Official Liquidator

CORAM : D.B.BHOSALE, J.

DATE : 2ND AUGUST, 2007

OFFICIAL LIQUIDATOR'S REPORT
DATED 25TH JULY, 2007

P.C.

1. This Report is filed in pursuance of the order passed by the learned Single Judge dated 21st April, 2007. In paragraph six of this order the learned Single Judge observed thus :-

"A perusal of the report of the Official Liquidator dated 19th April, 2007 would ex-facie demonstrate that the Liquidator has not dealt with the claim of the Customs Authorities to priority. The report considers

only the question of apportionment. In fact in paragraphs 15 and 16 of the affidavit filed by the Customs Department before the Official Liquidator, a claim of priority has been raised. Though there was inadvertance on the part of the Customs Authorities in not pointing out the subsequent directions of the Division Bench dated 19th December, 2003 and 9th January, 2004 when an order was passed by the Court on 22nd March, 2007, it is necessary and proper that in compliance with the directions of the Division Bench, the question of priority is considered afresh. In order to facilitate this parties shall appear before the Official Liquidator on 3rd May, 2007 through authorised representatives and/or Advocates at 11.00 a.m. when the Customs Authorities shall be at liberty to place all their submissions in regard to the claim of priority and apportionment. The Warehousing Corporations would also be at liberty to place their submissions on the record. The Liquidator shall after considering the rival submissions place a further report after adjudicating upon the claim, including the question of priority."

2. Learned counsel appearing for the Central Warehousing Corporation and the Customs Department submitted that directions sought in the Report

cannot be granted. They submitted that in view of the aforesaid directions given by the learned Single Judge vide order dated 21st April, 2007, the Official Liquidator ought to have made the legal opinion given by M/s.Billawala & Co available to the Central Warehousing Corporation & the Customs Department and conducted a fresh hearing and only after adjudicating upon the claim he should file Report before this Court. Upon perusal of the directions given by this Court in the order dated 21st April, 2007 and the prayer clause (a) in the Report I find substance in the submissions advanced by learned counsel. After obtaining the legal opinion, admittedly no hearing was conducted by the Official Liquidator. In the circumstances, I am satisfied this Report can be disposed of by the following directions :-

(a) The legal opinion given by M/s.Billawala & Co. be made available to the learned counsel appearing for the Central Warehousing Corporation

and the Customs Department. The Official Liquidator to fix a date of hearing afresh and after considering the rival submissions place fresh report after adjudicating upon the claim, including a question of priority.

(b) With these directions, the Official Liquidator's Report stands disposed of. It is needless to express that the Official Liquidator shall give written intimation to the advocates appearing on behalf of the Central Warehousing Corporation, the Maharashtra State Warehousing Corporation and the Customs Department well in advance.

(D.B.BHOSALE, J.)

